

DECLASSIFIED

AS109A

Current Human Rights Situation in Argentina

(U) Following is a description of key human rights developments since the Task Force completed its assessment in early February:

Disappearances

■ We have received reports of seventeen disappearances for the period since February 1. We immediately communicated these reports to high GOA authorities and asked for information on their whereabouts. The GOA has provided us with information that three of the persons were arrested and charged in the courts. One person was briefly detained and then released. The GOA has been unable to provide information on the thirteen other cases. In three cases, however, the disappeared persons have contacted relatives by letter or telephone call to advise that they were well and would eventually reappear. The last disappearance took place May 13. A list of unresolved disappearances, including those three, is attached.

■ The victims of these abductions/disappearances have no confirmed connection with terrorist groups. Some, such as members of the Socialist Workers' Party, and the Argentine Communist Party-associated Relatives of Disappeared and Detained Persons are related to the nonviolent political left.

■ This record since February compares to previous years when disappearances averaged about 55 per month in 1978, 180 per month in 1977, and 300 per month in 1976. In mid-May 1979 the Argentine Permanent Assembly for Human Rights published a list of 5,465 disappearances since 1975; in the month following publication, the Assembly received reports of an additional 105 previously unreported cases. An earlier Assembly report contained 80 1978 disappearances unknown to the Embassy and one from 1979.

Accounting for the Disappeared

■ The GOA has not yet taken any public step to account for the disappeared. The Government has addressed the broad issue internally and is seeking solutions to specific aspects of the problem, such as

ARGENTINA PROJECT (S200000044)

(U.S. DEPT. OF STATE, A/RPS/IPS)

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() Release (X) Excise () Deny

Exemption(s):

Declassify: (X) In Part () In Full

X Classify as C () Extend as () Downgrade to

5/22/01 Declassify on 5/21/01 Reason 25X6

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shortening the period for legal presumption of death. There are also indications that it is seeking to establish what documentary evidence exists throughout the security apparatus.

Foreign Minister Pastor briefed EC-9 ambassadors in Buenos Aires recently on the terms of new legislation and said that relatives will be able to petition the Government for assistance and information three months after the occurrence of a disappearance. The Government will have three months to establish the whereabouts of the missing person and, if no information is developed, relatives will be able to claim survivors' benefits and regularize their legal status. Although he did not supply details, Pastor said relatives will be able to claim indemnization.

General Viola reiterated to Ambassador Castro on June 25 that the GOA does not have information on the fate of the disappeared and in view of the extended periods of disappearance he doubted any of these people were alive. He said a few of the disappeared may reappear, but these would be rare exceptions. In a public speech delivered on Army Day (May 29) Viola referred obliquely to the fate of the disappeared, calling them "those who will be absent forever." Argentine human rights groups have interpreted this tacit statement as an admission that many of the disappeared were killed by Argentine police and military forces.

The Embassy concluded in a recent trends report (May 31) that "we are reasonably certain that the apparatus for disappearing people still exists although, even considering a small upsurge of disappearances in the past several weeks, it appears less used than in the past."

PEN Prisoners

The GOA has continued to release detainees from PEN. The Embassy estimated in mid-June that the political prisoner population in this category is now at about 2,200. The GOA announced June 29 that there are now 1,723 PEN prisoners. At the end of 1978, this figure stood at about 2,900 and at the beginning of 1978 at about 3,500. It is not clear

how many of those removed from PEN are at liberty and how many remain in custody under some form of charges in judicial processes, or after having been convicted by either military or civilian tribunals. The Embassy estimates the total current prison population of persons confined because of the GOA's counter-subversion campaign at just under 3,000, including those held under PEN and persons who have been tried and convicted in civil or military courts. We have been told by a source on President Videla's staff that the GOA will continue to review the status of PEN detainees and plans to have the number down to 800 to 1,000 by the end of this year; these prisoners would continue to be held indefinitely under PEN since the "Campora amnesty" of 1973 makes it impossible to prosecute them. Other high-level Argentine officials have said that a certain number of persons will continue under PEN since the GOA considers them committed subversives although it lacks evidence that will stand up in court. 31

Foreign Minister Pastor said the GOA has augmented its legal staff reviewing PEN detention from four to 30.

Clandestine Prisoners

The Embassy has received fragmentary but credible data which suggest the GOA may continue to hold a number of prisoners that it has not publicly acknowledged. In a recent case a woman, who had disappeared in late 1978, was released by the authorities. It appears that most of the persons being held clandestinely are either the "disappeared" in process through the security apparatus or former terrorists who are cooperating with the authorities. As the number of new disappearances has dropped, there is little reason to think that there are still substantial numbers "in process." The Embassy believes that if clandestine prisoners exist, their number could not be more than a few hundred as an outside limit, and it considers it unlikely that the figure be that high. There are fragmentary data supporting, in the Embassy's view, that some small, scattered clandestine detention centers still exist, each holding no more than perhaps 25 persons. It is believed that such centers would be closed before the arrival of the IACHR in November.

Right of Option

[REDACTED] Argentine Government action on the right of option program continues at a slow pace. The GOA has given permission for 18 detainees to travel to the U.S. under the right of option program; 13 entered the U.S. under our parole program. The Embassy has issued 95 certificates of eligibility. General Viola assured Ambassador Castro again that approval of right of option cases would proceed more quickly. GOA officials announced that about 170 persons have been released under right of option for travel to all countries.

Prison Conditions

[REDACTED] The GOA has published uniform regulations for the treatment of detainees in a move designed to end variations in treatment at different facilities. The ICRC urged this step and has called the rules a significant improvement for the treatment of detainees. We have reports, however, that the regulations have not yet been fully implemented in all facilities. The GOA has consolidated PEN detainees in six facilities.

[REDACTED] According to reports [REDACTED] 721 from other prisoners, in February one person disappeared from prison, another was tortured, and a third died as a result of beatings by guards. In early May, the Permanent Assembly for Human Rights reported that some of the 200 prisoners moved from Resistencia prison to the La Plata prison were beaten and robbed during the transfer.

The Judiciary

(U) As the NYC Bar mission noted in its report, the executive power continues to decline to provide information in response to habeas corpus petitions filed by the relatives of disappeared persons. Regarding PEN detainees, the Executive response is that "links with subversives" constitute sufficient grounds for continued detention, invoking its alleged power to hold individuals without charge under the Constitutional state of siege authority. The NYC Bar mission report was sharply critical of the lack of professional objection to the denial of due process and deterioration in the executive power of the judiciary in recent years.

[REDACTED]

(U) The courts have recently tried a number of persons on pre-1976 subversive charges and sentenced them to prison terms. Three police officers were recently prosecuted for abuse of prisoners.

Argentine Attitudes Toward the Human Rights Issue

President Videla and Army Commander Viola are maintaining their leadership position within the GOA on human rights policy and appear to have begun carrying out commitments made to us repeatedly in the past to bring disappearances to an end and reduce PEN detention. Hardliners in the Argentine military still favor repressive policies directed at a broad range of political dissidents. Army Chief of Staff General Suarez Mason, for example, recently proposed to the Cabinet a broad offensive against political subversives which clearly would include groups unrelated to the terrorist movements of the past. General Menendez, Third Corps Commander, has called for continued strong efforts to battle "ideological subversion."

(U) The prestigious daily La Prensa has joined The Buenos Aires Herald in championing human rights. However, no paper has agreed to publish the Permanent Assembly's latest list of disappearances. The Catholic Church addressed an appeal to President Videla on May 4 on behalf of disappeared persons, PEN detainees, jailed labor leaders, and lower income groups adversely affected by present GOA economic policy.

(U) The New York Bar Association's report on human rights conditions in Argentina noted that ingredients are present for future progress in human rights observance, but that the support of the Argentine legal profession is essential for a quick return to civilized legal practices. The New York Bar Association exhorted its Argentine colleagues to take a more active role in this area.